

TITLE 92 - NEBRASKA DEPARTMENT OF EDUCATION
CHAPTER - REGULATIONS AND PROCEDURES FOR SCHOOL AND DISTRICT ACCOUNTABILITY

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001 General Provisions.

001.01 Statutory Authority. This Chapter is adopted pursuant to Sections 79-305, 79-318(5), 79-758, 79-759, 79-760.01, 79-760.02, 79-760.3, 79-760.5, 79-760.06, 79-760.07, 79-762, 79-1601, of the Revised Statutes of Nebraska (R.R.S.).

001.02 Scope and Application of this Chapter. This Chapter contains provisions regarding the state system of accountability for school systems and schools.

001.03 Purpose. The purpose of this Chapter is to establish accountability system requirements, using the AQuESTT framework approved by the Board, and in accordance with the Nebraska Quality Education Accountability Act (Sections 79-757 to 79-762 R.R.S.) and Nebraska's consolidated State plan under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), to implement the requirements of covered programs under the ESEA and of the amended McKinney-Vento Homeless Assistance Act.

001.04 Implementation of this Chapter. This rule takes effect July 1, 2022.

001.05 Related Regulations. In addition to the requirements of this Chapter, public school systems must also comply with 92 NAC 6 (Regulations and Standards for Uniform Sharing of Student Data, Records and Information), 92 NAC __ (Regulations and Procedures for the Approval of Schools, and 92 NAC __ (Regulations and Procedures for the Accreditation of School Systems).

001.06 Additional materials not inconsistent with these rules. The Department may issue, and update as appropriate, policy directives, guidance documents, operational memoranda, administrative regulations, forms, and tools to guide application of accreditation standards and the implementation of this Chapter, consistent with the promulgated rules and regulations. Any such materials will be made widely available for access by school systems and the public.

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002 Definitions. As used in this Chapter:

002.01 Alternate assessment means a test designed for students with severe cognitive disabilities or multi-handicapping conditions, generally less than 1% of the overall student population.

002.02 AQuESTT (Accountability for a Quality Education System Today and Tomorrow) means a framework for approval, accreditation, and accountability. The AQuESTT framework consists of three broad domains that exist in quality education systems:

1. Leadership
2. Success, Access, and Support to include the following tenets:
 - a. Educational Opportunities and Access;
 - b. Transitions; and
 - c. Positive Partnerships, Relationships, and Student Success.
3. Teaching, Learning, and Serving to include the following tenets:
 - a. Educator Effectiveness;
 - b. Student Achievement and Growth; and
 - c. Postsecondary, Career, and Civic Readiness.

002.03 Assessment means the process of measuring student achievement and progression state-adopted standards, as defined in Section 79-758(1) R.R.S. (Terms, defined.).

002.04 Assessment Instrument means a test aligned with state standards that is designed to measure student progress and achievement, as defined in Section 79-758(2) R.R.S. (Terms, defined.).

002.05 Board means the State Board of Education.

002.06 Commissioner means the State Commissioner of Education.

002.07 Continuous Improvement (and Continuous Improvement Process) means systematic, ongoing instructional improvement processes at either the system, or building level that unfold progressively; that do not have a fixed or predetermined end point; and that are sustained over extended periods of time. Continuous improvement also encompasses the general belief that improvement is not something that starts and stops but is something that requires an organization and professional commitment to an ongoing process of learning, self-reflection, adaptation, and growth, and is ultimately focused on improving student achievement.

002.08 Criterion Referenced Test means an assessment instrument designed to compare a student's knowledge and skills against a predetermined standard, cut score, or other criterion.

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002.09 Department means the State Department of Education, which is comprised of the Board and the Commissioner.

002.10 Economically Disadvantaged means low-income students who qualify for free or reduced priced lunch and students who are homeless, migrant, or runaways.

002.11 English Learner (EL) means, when used in this Chapter with respect to a student:

002.11A Who is enrolled or preparing to enroll in an elementary school or secondary school;

002.11B Who falls into at least one of the following categories:

002.11B1 Who was not born in the United States or whose native language is a language other than English;

002.11B2 Who is a Native American or Alaska Native, or a native resident of the outlying areas and who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or

002.11B3 Who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

002.11C Whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual at least one of the following:

002.11C1 The ability to meet the challenging State academic standards adopted pursuant to 20 U.S.C. § 6311(b);

002.11C2 The ability to successfully achieve in classrooms where the language of instruction is English; or

002.11C3 The opportunity to participate fully in society.

002.12 Governing Body means the school board or board of education of a public school district, a board elected or appointed to provide direction to a nonpublic school or a nonpublic school system, or an individual or corporate owner.

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002.13 Guidance Documents means reference materials, including workbooks and rubrics, provided to school systems and schools by the Department to facilitate implementation of policies, regulations, procedures, and programs.

002.14 Learning Community means a political subdivision which shares the territory of member school districts and is governed by a learning community board as provided in Sections 79-2101 (Learning community, defined; fiscal year.) and 79-2102 R.R.S. (Establishment of new learning community; Commissioner of Education; certification.).

002.15 National Assessment Instrument means a nationally norm-referenced test developed and scored by a national testing service, as defined in Section 79-758(3) R.R.S. (Terms, defined.).

002.16 Norm Referenced Assessment means a standardized test that is designed to compare and rank test takers in relation to one another using questions designed to emphasize performance differences among test takers.

002.17 Nonpublic School means a private, denominational, or parochial school.

002.18 Performance Level Classifications means categories of public schools and school districts established by the Board based upon public school and school district performance as indicated by graduation rates, student growth, and student improvement on statewide summative assessments as provided in Section 79-760.03 R.R.S. (Statewide assessment and reporting system for school year 2009-10 and subsequent years; State Board of Education; duties; technical advisory committee; terms; expenses.) and by status and participation in statewide assessment. Additional indicators of public school and district performance based on AQuESTT tenets may be specified by the Commissioner and adopted by the Board.

002.19 Priority School means a public school selected from the lowest performance level classification and which demonstrates the greatest need to increase capacity to implement, support, and sustain school improvement efforts. As provided in this Chapter, a priority school receives additional support and guidance from the Department, Educational Service Units (ESUs), and other stakeholders.

002.20 Progress Plan means a school improvement plan created in collaboration with the priority school staff, administration, and local school board of the district with control of the priority school and includes specific actions required by the school and district in order to remove its classification as a priority school, including any required level of progress as indicated by measurable indicators.

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002.21 School District means the territory under the jurisdiction of a single public school board as defined in Section 79-101(1) R.R.S. (Terms, defined.).

002.22 School Improvement means dramatic and comprehensive intervention in low-performing schools. Involves turnaround leadership, culture shift, instructional transformation, and talent development.

002.23 School System means a public school district or a nonpublic school or group of nonpublic schools under a governing body organized to provide education in elementary, middle, secondary, and/or high school grades as provided in this Chapter.

002.24 Statewide Summative Assessment (also referred to as Statewide Assessment Instrument) means the process of measuring student achievement and progress on state-adopted standards. This definition applies to the statewide system of assessment and reporting for English language arts, mathematics, and science.

002.25 Status means a rating based on percent of students proficiency on state-required assessments of English language arts and math for grades 3-8, and for high schools the standard college admission test administered by the Department to public school students in the eleventh grade pursuant to Section 79-759 R.R.S. (Standard college admission test; administered; expense.).

002.26 Student Achievement means evidence of student gains on measures of academic achievement (such as formative and summative assessment data, coursework, instructor observations) and elements perceived to influence those gains (such as student attendance, student engagement and time on task, and similar information, all of which are used to provide a well-rounded picture of school district and school performance.

002.27 Student Group (also referred to as Subgroup) means a group of students disaggregated from all students, including specific racial/ethnic groups, economically disadvantaged students, students with disabilities, and English Learner students.

002.28 Student Growth means improvement compared to the same individual's performance in the previous year.

003 Assessments of Student Learning.

003.01 Public School District Responsibilities Regarding the Statewide System of Assessments.

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003.01A In addition to administration of a balanced assessment system, as required by 92 NAC __ (Regulations and Procedures for the Accreditation of School Systems), a school district shall ensure participation by schools and students within the district in the statewide system for the assessment of student learning described in an annual plan produced by the Board pursuant to Section 79-760.03 R.R.S. (Statewide assessment and reporting system for school year 2009-10 and subsequent years; State Board of Education; duties; technical advisory committee; terms; expenses.), for the following subjects and grade levels:

003.01A1 English Language Arts - Grades 3-8, and at least once in high school;

003.01A2 Mathematics - Grades 3-8, and at least once in high school;

003.01A3 Science - Once in elementary, once in middle, and once in high school;

003.01A4 Alternate Assessments; and

003.01A5 English Language Proficiency Assessment - Grades K-12 English learners.

003.01B The administration of any assessment instrument included within the Board's plan regarding a statewide system for the assessment of student learning shall be in accordance with directives and guidance of the Department. The purpose of such assessments shall be to:

003.01B1 Determine how well public schools are performing in terms of achievement of public school students related to the state academic content standards;

003.01B2 Report the performance of public schools based upon the results of state assessment instruments and national assessment instruments;

003.01B3 Provide information for the public and policymakers on the performance of public schools; and

003.01B4 Provide for the comparison among Nebraska public schools and the comparison of Nebraska public schools to public schools elsewhere.

003.02 Nonpublic School Responsibilities Regarding Assessments of Student Learning.

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003.02A Assessment Plan. A nonpublic school shall have an assessment plan which includes a schedule and procedures for assessing student success in achieving academic content standards using the following:

003.02A1 A whole grade norm-referenced assessment using a national assessment instrument, beginning no earlier than grade two, and to be administered annually in at least one grade in each of the following levels: grades 2-5; grades 6-8; and at least once in the high school grades.

003.02A2 A standardized norm-referenced assessment designed to rank test takers, administered annually in at least one grade in each of the following three levels: grades 4-6; grades 7-9; grades 10-12.

003.02A3 A criterion referenced assessment based upon local checklists or benchmarks of progress, portfolio collections showing student progress, or other criterion-referenced measures, and designed to determine acquisition of competencies in predetermined criteria or learning standards established in reading, writing, and mathematics; to be administered at least annually to students beginning in grade five and continuing through grade 12.

Such plan shall also provide for data on student success in achieving school standards to be reported annually to the school's head administrator or governing body.

004 Reporting on Performance.

004.01 Public School District Responsibilities for Reporting on Performance.

004.01A Reporting to the Department. Each school district shall, pursuant to Section 79-760.03 R.R.S. (Statewide assessment and reporting system for school year 2009-10 and subsequent years; State Board of Education; duties; technical advisory committee; terms; expenses.) and 79-760.05 R.R.S. (Statewide system for tracking individual student achievement; State Board of Education; duties; school districts; provide data; analysis and reports.), report aggregate results of assessments from the statewide system of assessments described in the Board's plan developed pursuant to Section 79-760.03 R.R.S. (Statewide assessment and reporting system for school year 2009-10 and subsequent years; State Board of Education; duties; technical advisory committee; terms; expenses.), on a building basis to the Department. Each school district shall also report individual student data for scores and sub-scores on the standard college admission test selected by the Board and in accordance with procedures established by the Board. Each school district shall report:

004.01A1 Student-Level Data. By June 30 of a school year, the following data to the Department electronically as directed by the

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Department pursuant to Section 79-528 R.R.S. (Reports; filing requirements; contents.):

004.01A1a Individual student demographics including each student's race, poverty status, high mobility status, attendance, and limited English proficiency, and others as may be required pursuant to Nebraska's consolidated State plan under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA);

004.01A1b Individual student achievement including individual student achievement data from the statewide summative assessment and scores and subscores available to the district;

004.01A1c Individual student educational input characteristics including class size, teacher education, teacher experience, special education, early childhood programs, federal programs, and targeted education programs.

004.01A2 District-Level Data. On or before November 1, annual financial reports as required by Section 79-528 R.R.S. (Reports; filing requirements; contents.).

004.01A3 Additional Data. As directed by the Commissioner, any other data necessary for administration of the statewide system of tracking student achievement.

004.01B Reporting to Stakeholders. A school district shall annually prepare a written report which includes at least student academic performance data, analysis of student group performance data, school district demographics, school improvement goals and progress, and financial information.

004.01C A school district shall have a written policy for annually preparing and distributing the report prepared in accordance with Section 004.01B to the residents of the district. The policy shall assure that individual student test scores and other personally identifiable student data and information are kept confidential, in accordance with the data reporting provisions and masking rules described in Nebraska's consolidated State plan under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA).

004.02 Nonpublic School Responsibilities for Reporting on Performance.

004.02A Reporting to the Department. Each school year, for the purpose of implementing a statewide system of tracking student achievement, a nonpublic school

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shall report by June 30 of each school year the following data to the Department electronically as directed by the Department:

004.02A1 Student-Level Data. Including:

004.02A1a Individual student demographics including each student's race, poverty status, high mobility status, attendance, and limited English proficiency;

004.02A1b Individual student achievement including individual student achievement data from the norm-referenced and criterion-referenced assessment and scores and subscores available to the non-public school; and

004.02A1c Individual student educational input characteristics including class size, teacher education, teacher experience, special education, early childhood programs, and disciplinary data such as suspensions and expulsions.

004.02A2 Additional Data. As directed by the Commissioner, any other data necessary for administration of the statewide system of tracking student achievement.

004.02B Reporting to Stakeholders. A nonpublic school shall annually prepare a written report which includes at least student academic performance data, analysis of student group performance data, demographics, school improvement goals, and progress.

004.02C A nonpublic school shall have a written policy for annually preparing and distributing the report prepared in accordance with Section 004.02B to the school's governing body. The policy shall assure that individual student test scores and other personally identifiable student data and information are kept confidential, in accordance with the data reporting provisions and masking rules described in Nebraska's consolidated State plan under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA).

005 Annual Measurement of District and Public School Performance.

005.01 Accountability System. The Board-established accountability system, designed to be used to measure and classify the performance of individual public schools and school districts as set forth in Section 79-760.06 R.R.S. (Accountability System; combine multiple indicators; State Department of Education; powers; duties; designation of priority schools.), includes but is not limited to Nebraska's consolidated State plan under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA). Pursuant to such system, all such schools and school

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districts are assigned an annual performance rating. The system is used to make Federal Designations and State Designations, as described in this Section, including for the designation of schools for additional support and targeted improvement efforts.

005.02 Classification. Consistent with Section 79-760.06(2) R.R.S. (Statewide assessment and reporting system for school year 2009-10 and subsequent years; State Board of Education; duties; technical advisory committee; terms; expenses.), the indicators shall annually be combined into a school performance score and district performance score. The Board shall establish performance level classifications based upon school performance scores and district performance scores in order to classify the performance of public schools and school districts. Schools in the lowest classification level are under consideration for priority school designation, as detailed below. As such, the schools and districts in the lowest classification level must consult with their Educational Service Unit, the Department, or other partner entities to consider the additional supports needed to improve student achievement

005.03 Federal Designation. The Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), provides for the designation and focusing of federal funding to specific schools based on multiple measures of student achievement. These designations shall be determined using similar indicators implemented in the state accountability system. These designations may include comprehensive school reforms and targeted supports for specific student groups. If a school is non-compliant in the implementation of their federal designation and/or requirements for said designations, the school district may be placed assigned a probationary cycle of accreditation as described in 92 NAC ____ (Regulations and Procedures for the Accreditation of School Systems).

005.04 State Designation. In accordance with Section 79-760.06 R.R.S. (Accountability system; combine multiple indicators; State Department of Education; powers; duties; designation of priority schools.), the Board shall, at its discretion, designate no fewer than three (3) public schools as a priority school based on recommendations from the Commissioner or their designee. A school designated as a priority school shall be in the lowest performance level classification at the time of the initial designation as a priority school and shall remain a priority school until such designation is removed by the Board as provided in Subsection 005.09 of this Chapter.

In making recommendations to the Board for the designation of a priority school, the Commissioner or the Commissioner's designee shall take into consideration public schools in the lowest performance level classification and school district performance based on the following:

005.04A Data required to be reported to the Department for all public schools and districts pursuant to this Chapter;

005.04B Qualitative data which may include information used by the Department and Board for purposes of approving and accrediting school systems

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and for ongoing monitoring of system compliance with approval and accreditation requirements; an assessment of the capacity of the school, district, and local board to design and implement school improvement strategies. A qualitative review may include classroom observations, root cause analyses, stakeholder interviews, financial reviews, and an assessment of the districts' compliance with approval and accreditation requirements.

005.05 Support Provided to Priority Schools. A school in the lowest level of performance established by the Board, shall be designated a priority school and, as such, shall have an intervention team of up to five (5) people appointed by the Commissioner, consistent with the requirements of Section 79-760.07 R.R.S. (Priority school; intervention team; members; duties; expenses; develop progress plan; contents; compliance required; review; school board; duties; Commissioner of Education; report; contents.), to assist with the improvement of the school. The School Board shall provide the intervention team with full access to the priority school and school district, staff of both the priority school and school district, and relevant information including but not limited to academic and financial information.

005.06 Progress Plan. Working together, the intervention team, priority school staff, governing body of the school district, and staff of the school identified as a priority school, shall develop a progress plan detailing at least the following, as required by Section 79-760.07 R.R.S. (Priority school; intervention team; members; duties; expenses; develop progress plan; contents; compliance required; review; school board; duties; Commissioner of Education; report; contents.):

005.06A The issues diagnosed as negatively affecting student achievement in the priority school;

005.06B Strategies to address issues diagnosed as having a negative effect on student achievement, including specific actions required to be completed by the school district and school and the projected timeline for their completion;

005.06C Indicators to be used to measure school progress; and

005.06D Levels of progress to be made on each measure.

Upon approval of the progress plan by the Board, in accordance with Section 006.05 of this Chapter, the intervention team shall assist the superintendent and staff of the school district containing the priority school in implementing strategies to address issues that negatively affect student achievement in the priority school through the progress plan developed pursuant to this Section.

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005.07 Progress Plan Approval and Progress Monitoring. On a timeline established by the Department, the school district shall submit the progress plan for review and approval by the Board. Prior to approving any such progress plan, the Board may request additional information and identify plan deficiencies to be addressed in a resubmission of the plan by the school district.

005.07A Recommendation of the Commissioner or Commissioner's Designee.

The Board will review a school district's progress plan and, based on a recommendation of the Commissioner or the Commissioner's designee, will approve the plan or require modification and resubmission for approval. In making any such recommendation, the Commissioner or Commissioner's designee shall consider whether the progress plan is reasonably designed to address issues that negatively affect student performance in the priority school.

005.07B Annual Review. A school district implementing an approved progress plan shall report to the Board progress made on the measurable indicators of progress identified in the plan on an annual basis and in accordance with a timeline and process established by the Department. Following each progress report submission, the Board will conduct an annual review of the priority school and may recommend modification of the progress plan.

005.07C Compliance with Progress Plans. Compliance with a progress plan shall be monitored annually by the assigned intervention team. Full compliance is required for maintenance of accreditation for any school district that operates a priority school, pursuant to 79-760.07(4) R.R.S. (Priority school; intervention team; members; duties; expenses; develop progress plan; contents; compliance required; review; school board; duties; Commissioner of Education; report; contents) and in accordance with 92 NAC ____ (Regulations and Procedures for the Accreditation of School Systems). Compliance requires full cooperation in the implementation of interventions and execution of interventions with fidelity. Implementation may be adjusted throughout the school year, as needed, based on the school district's and school's use of progress monitoring tools.

005.08 Board Directives in Response to Insufficient Progress. If a school has been designated as a priority school for the third consecutive school year, the Board will reevaluate the progress plan and may direct the school district to take any of the following actions:

005.08A Develop and submit a significant revision of the progress plan;

005.08B Develop and submit an entirely new progress plan; or

005.08C Adopt and implement an alternative administrative structure, as provided for in Section 79-760.07 R.R.S. (Priority school; intervention team;

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members; duties; expenses; develop progress plan; contents; compliance required; review; school board; duties; Commissioner of Education; report; contents.).

005.08C1 Shared Administration of Priority School. The Commissioner or the Commissioner's designee may share the administration of a priority school, under the plan approved by the Board. A shared administration structure may include, but is not limited to, shared administrative responsibilities (e.g. superintendency, principalship), the development of policies, procedures, and protocols, supervision of school leadership and staff, extension of the school year, and recruitment and retention of educators. The Board may recommend to the local school board the removal of any school- or district-level personnel. Any such alternative administrative structure shall be written into the school's progress plan.

005.09 Exit Criteria. A priority school shall maintain such designation until a change of designation (e.g., exit from priority school status) is approved by the Board. The intervention team assigned to a priority school shall conduct a qualitative and quantitative review of the school's progress made through the period of designation as a priority school. This review shall inform a recommendation to the Commissioner or Commissioner's designee for removal of priority school designation, including the timing of any such recommendation.